

Executive Summary – Enforcement Matter – Case No. 41483

City of Atlanta

RN102883212

Docket No. 2011-0582-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

City of Atlanta wastewater plant, located approximately 0.25 mile east of the intersection of State Highway 77 and State Highway 43, south of Atlanta, Cass County

Type of Operation:

Domestic wastewater treatment system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 10, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,350

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$12,350

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41483
City of Atlanta
RN102883212
Docket No. 2011-0582-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 25, 2011

Date(s) of NOE(s): April 5, 2011

Violation Information

Failed to comply with permitted effluent limits for ammonia nitrogen and total zinc [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010338001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By February 28, 2011, Respondent added risers to manholes and evaluated and replaced cracked sections of sewer pipe to reduce inflow and infiltration.

Technical Requirements:

The Order will require Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010338001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: David M. Cockrell, City Manager, City of Atlanta, P.O. Box 669, Atlanta, Texas 75551

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Apr-2011	Screening	18-Apr-2011	EPA Due	5-Jun-2011
	PCW	18-Apr-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Atlanta		
Reg. Ent. Ref. No.	RN102883212		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	41483	No. of Violations	1
Docket No.	2011-0582-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jeremy Escobar
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **147.0%** Enhancement **Subtotals 2, 3, & 7** **\$7,350**

Notes: Enhancement for 20 months of self-reported effluent violations, two NOVs with same/similar violations, and six NOVs with dissimilar violations, and one Agreed Order without denial.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$2,766
Approx. Cost of Compliance \$25,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$12,350**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$12,350**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$12,350**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$2,470**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$9,880**

Screening Date 18-Apr-2011

Docket No. 2011-0582-MWD-E

PCW

Respondent City of Atlanta

Policy Revision 2 (September 2002)

Case ID No. 41483

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102883212

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	22	110%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 147%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 20 months of self-reported effluent violations, two NOVs with same/similar violations, and six NOVs with dissimilar violations, and one Agreed Order without denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 147%

Screening Date 18-Apr-2011
Respondent City of Atlanta
Case ID No. 41483

Docket No. 2011-0582-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102883212

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010338001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented in a record review conducted on March 25, 2011, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen and zinc to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

154 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,766

Violation Final Penalty Total \$12,350

This violation Final Assessed Penalty (adjusted for limits) \$12,350

Economic Benefit Worksheet

Respondent City of Atlanta
Case ID No. 41483
Reg. Ent. Reference No. RN102883212
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$25,000	31-Jul-2010	28-Feb-2012	1.58	\$132	\$2,635	\$2,766
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Cost provided by the Respondent for adding risers to manholes and evaluating and replacing cracked sections of sewer pipe to reduce inflow and infiltration. The Date Required is the first date of noncompliance. The Final Date is the expected date the Respondent will return to compliance with permitted effluent limits.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25,000

TOTAL

\$2,766

City of Atlanta
TPDES Permit No. WQ0010338001
Docket No. 2011-0582-MWD-E; Case No. 41483

EFFLUENT VIOLATION TABLE			
Months	NH3-N Daily Avg. Conc.	Total Zinc Daily Avg. Conc.	Total Zinc Daily Max. Conc.
	Limit = 3 mg/L	Limit = .0541 mg/L	Limit = .115 mg/L
July 2010	3.3	c	.27
August 2010	4.56	c	c
October 2010	c	.067	c
November 2010	c	.07	c
December 2010	c	.06	c

NH3-N = ammonia nitrogen

c = compliant

Max. = maximum

mg/L = milligrams per liter

Conc. = concentration

Avg. = average

Compliance History

Customer/Respondent/Owner-Operator:	CN600341630	City of Atlanta	Classification: AVERAGE	Rating: 2.84
Regulated Entity:	RN102883212	CITY OF ATLANTA WASTEWATER PLANT	Classification: AVERAGE	Site Rating: 2.33
ID Number(s):	WASTEWATER	PERMIT		WQ0010338001
	WASTEWATER	PERMIT		WQ0010338001
	WASTEWATER	EPA ID		TX0032344
	WASTEWATER LICENSING	LICENSE		WQ0010338001
Location:	approximately 0.25 mile east of the intersection of State Highway 77 and State Highway 43, south of Atlanta in Cass County, Texas.			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	April 27, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 18, 2006 to April 18, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Jeremy Escobar	Phone:	825-3422	

Site Compliance History Components

- | | |
|----------------------------------------------------------------------------------------------------|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |
| 6. Rating Date: 9/1/2010 Repeat Violator: | NO |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 11/15/2010 ADMINORDER 2010-0764-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
30 TAC Chapter 319, SubChapter A 319.7(d)

Rqmt Prov: Monitoring & Reporting Req. No. 1 PERMIT
Description: Failed to timely submit the DMRs.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
Rqmt Prov: Sludge Provisions PERMIT
Description: Failed to timely submit the annual sludge report.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
30 TAC Chapter 319, SubChapter A 319.7(d)

Rqmt Prov: Biomonitoring Req. Nos. 3.b(2) and (3) PERMIT
Description: Failed to timely submit the DMRs for toxicity.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
30 TAC Chapter 319, SubChapter A 319.1

Rqmt Prov: Monitoring and Reporting Req. No. 1 PERMIT
Description: Failed to timely submit monitoring results at the intervals specified in the permit.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/17/2006	(500295)
2	05/19/2006	(500296)
3	06/16/2006	(500297)
4	06/26/2006	(500298)
5	09/18/2006	(522389)
6	09/27/2006	(522390)
7	08/07/2006	(522391)
8	11/22/2006	(547092)
9	01/24/2007	(547093)
10	02/28/2007	(579579)
11	03/21/2007	(579580)
12	06/01/2007	(579581)
13	06/04/2007	(579582)
14	07/23/2007	(579583)
15	03/28/2007	(579584)
16	07/03/2007	(593237)
17	08/09/2007	(602882)
18	09/04/2007	(602883)
19	12/07/2007	(609529)
20	10/11/2007	(621252)
21	10/18/2007	(621253)
22	01/16/2008	(621254)
23	02/26/2008	(636663)
24	04/02/2008	(673329)
25	01/16/2008	(673330)
26	01/22/2008	(673331)
27	07/30/2008	(687962)
28	04/02/2008	(691504)
29	07/15/2008	(691505)
30	07/15/2008	(691506)
31	07/03/2008	(699440)
32	07/31/2008	(699441)
33	07/31/2008	(712441)
34	07/31/2008	(712442)
35	11/07/2008	(720835)
36	01/09/2009	(728690)
37	01/08/2009	(728691)
38	04/17/2009	(737579)
39	02/17/2009	(758986)
40	09/16/2009	(767522)
41	04/30/2010	(798509)
42	08/05/2010	(799908)
43	06/03/2009	(808310)
44	03/02/2010	(808311)
45	06/08/2009	(808312)
46	06/26/2009	(808313)
47	08/21/2009	(808314)
48	08/28/2009	(808315)
49	06/03/2009	(808316)

50	11/09/2009	(808317)
51	06/03/2009	(808318)
52	11/20/2009	(808319)
53	06/03/2009	(808320)
54	12/16/2009	(808321)
55	06/03/2009	(808322)
56	01/25/2010	(808323)
57	09/16/2009	(827836)
58	05/17/2010	(832226)
59	03/26/2010	(832227)
60	05/13/2010	(832228)
61	05/12/2010	(832229)
62	05/17/2010	(832230)
63	05/17/2010	(832231)
64	06/21/2010	(846685)
65	07/21/2010	(861222)
66	08/23/2010	(867343)
67	09/20/2010	(874378)
68	10/27/2010	(881958)
69	12/07/2010	(888437)
70	12/20/2010	(896746)
71	01/18/2011	(902729)
72	04/05/2011	(907698)
73	02/18/2011	(909535)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	06/30/2006	(500298)	CN600341630		
Self Report?	YES			Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)				
	TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	07/31/2006	(522389)	CN600341630		
Self Report?	YES			Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)				
	TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	09/30/2006	(522391)	CN600341630		
Self Report?	YES			Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)				
	TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	11/30/2006	(547093)	CN600341630		
Self Report?	YES			Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)				
	TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	12/31/2006	(579584)	CN600341630		
Self Report?	YES			Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)				
	TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	01/31/2007	(579579)	CN600341630		

Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/28/2007 (579580)	CN600341630	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2007 (579581)	CN600341630	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2007 (579583)	CN600341630	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/03/2007 (593237)	CN600341630	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date	09/30/2007 (621253)	CN600341630	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2007 (621254)	CN600341630	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/07/2008 (647974)	CN600341630	
Self Report?	NO	Classification:	Moderate
Citation:	TCEQ Permit No. 10338-001 OP TWC Chapter 26 26.121		
Description:	Failure to maintain the sewage collection system.		
Self Report?	NO	Classification:	Moderate
Citation:	TWC Chapter 26 26.121		
Description:	Failure to prevent unauthorized discharge.		
Date	07/03/2008 (699440)	CN600341630	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date	07/31/2008 (699441)	CN600341630	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date	07/31/2008 (728690)	CN600341630	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		

Description: Failure to meet the limit for one or more permit parameter

Date 11/07/2008 (720835) CN600341630
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date 02/17/2009 (758986) CN600341630
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date 06/30/2009 (808314) CN600341630
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 07/10/2009 (760612) CN600341630
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125
TWC Chapter 26 26.121
Description: Failure to prevent unauthorized discharge of sewage from the collection system, and/or, subscriber collection system.

Date 09/16/2009 (827836) CN600341630
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date 06/30/2010 (861222) CN600341630
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 07/31/2010 (867343) CN600341630
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 08/31/2010 (874378) CN600341630
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2010	(888437)	CN600341630
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2010	(896746)	CN600341630
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	12/31/2010	(902729)	CN600341630
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2011	(909535)	CN600341630
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ATLANTA
RN102883212**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-0582-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Atlanta ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a domestic wastewater treatment system located approximately 0.25 mile east of the intersection of State Highway 77 and State Highway 43, south of Atlanta in Cass County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 10, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twelve Thousand Three Hundred Fifty Dollars (\$12,350) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's

Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay the administrative penalty. Therefore, Twelve Thousand Three Hundred Fifty Dollars (\$12,350) of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent, by February 28, 2011, added risers to manholes and evaluated and replaced cracked sections of sewer pipe to reduce inflow and infiltration.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010338001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on March 25, 2011, and shown in the table below:

EFFLUENT VIOLATION TABLE			
Months	NH3-N Daily Avg. Conc.	Total Zinc Daily Avg. Conc.	Total Zinc Daily Max. Conc.
	Limit = 3 mg/L	Limit = .0541 mg/L	Limit = .115 mg/L
July 2010	3.3	c	.27
August 2010	4.56	c	c
October 2010	c	.067	c
November 2010	c	.07	c
December 2010	c	.06	c

NH3-N = ammonia nitrogen

c = compliant

Max. = maximum

mg/L = milligrams per liter

Conc. = concentration

Avg. = average

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. The Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here.
2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010338001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

could be used. The term “signature” shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms “electronic transmission”, “owner”, “person”, “writing”, and “written” shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ramona Garcia Jr.
For the Executive Director

9/5/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

David M. Cockrell
Signature

4-17-2012
Date

David M. Cockrell
Name (Printed or typed)
Authorized Representative of
City of Atlanta

City Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.